IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 4167 (SS) OF 2001

U.P. State Road Transport Corporation,
Through Regional Manager, Dehradun,
District Dehradun. .....Petitioner.

Versus

1. Labour Court of U.P. at Dehradun.
2. Vinay Kumar, S/o Sri Babu Lal Sharma,
3. Ajit Singh, S/o Sri Kewal Singh,
4. Ram Lal Painuli, S/o Sri Parma Nand,
   Respondents No. 2 to 4 Office Assistant,
   Grade-II, Regional Manager Office,
   U.P.S.R.T.C., Dehradun.

o1.12.2005

Hon'ble Rajesh Tandon, J.

Heard Sri B.D. Kandpal, leaned counsel for the petitioner and Sri M.C. Pant, leaned counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 14th December, 200 (Annexure 1 t0 the writ petition) passed by the respondent no. 1 in Adjudicaton Case No. 18 of 2000 *Vinay Kumar and others Vs. Regional Manager and others.*

Briefly stated, the respondents no. 2 to 4 were initially appointed by the petitioner Corporation as Cleaners, but the work of clerical nature was also taken from them. In these circumstances, the respondents no. 2 to 4 filed an Adjudication case Bo. 67 of 1996 against petitioner before the respondent no. 1 claiming therein that they should be declared as Clerk and

benefits of clerical status be also granted to them. The adjudication case was decided in their favour by respondent no. 1 vide order dated 14.10.1996.

Thereafter in compliance of the order passed by the respondents no. 1, the respondent no.2 and 3 were designed as Officer Assistant Grade II and respondent no. 4 was designated as Junior Booking Clerk from the date of their regular appointment in the petitioner department. On 15.03.1999, the seniority of the Office Assistant Grade II working under the Region Dehradun was determined by the committee constituted for this particular purpose after disposing of all the objections and representations received by the committee. In this seniority List the name of the respondent No. 2 to 4 was at Serial No. 38, 37 and 39 respectively. This seniority was granted to them on the basis of their joining the duties of the designated post in view of the judgment and other dated 14.10.1996 passed by respondent no. 1.

Petitioner has submitted that at the relevant time in the year, 1999, there were only eight posts to Office Assistant Grade I vacant in the Dehradun Region as such the same were filled up by promotion from the seniority list from Serial No. 4 to 11.

Learned counsel for the petitioner has submitted that there was confusion regarding the fixing of seniority of respondents no.2 to 4 and as such the matter was referred to the headquarter of the petitioner Corporation seeking clarification to the effect that these employees were initially appointed as forth class (clearners) in the corporation and have been designated and appo8inted in third class according to the been of respondent no. 1 and as such how the seniority of these employees is to be fixed.

The headquarter after considering this matter came to the conclusion that the seniority of the respondent no.2 to 4 be counted from the date as has been decided and ordered by the respondent Labour Court in its judgment dated 14.10.1996 and directed accordingly.

The in view of the judgment dated 14.10.1996 and direction form headquarter the seniority list was amended and the seniority of the respondent no. 2 to 4 was refixed and the names of respondent no. 3 Ajit Singh was put at Serial No. 2 (1), respondent no. 2 at serial no. 8(1) and respondent no. 4 at serial no. 8(11) vide supplementary seniority list dated 28.01.2000.

At the time re-fixing the seniority list, there was no vacant post of Officer Assistant Grade I and as such, the promotion to respondents no. 2 to 4 could not be granted and they were assured that whenever the vacancy shall occur they shall be promoted to Officer Assistant Grade I.

However, the respondents no. 2 to 4 thereafter filed the present Misc. Claim Petition claiming therein the promotion to the post of Officer Assistant Grade I and the benefits thereof since 16.03.1999.

The petitioner filed its written statement before the respondent no. 1 and in paragraph 5 of the said written statement it has been stated that the seniority of the respondent nos. 2 to 4 has already been revised and determined by the supplementary sonority list dated 28.01.2000 and they will be provided the promotion to office Assistant Grade I as and when vacancy will occur.

The respondent no. 1 has passed the impugned order dated 14.12.2000 wherein it has been ordered that the respondents no. 2 to 4 be promoted from the post of Office Assistant Grade II to the post of Office Assistant Grade I and

benefits thereof be given to them since 16.03.1999. The respondent no. 1 further ordered that the promotion to respondent and the benefits thereof.

While entertaining the writ petition, on 17.08.2001, following orders was passed:-

"Notices have been accepted by M.C. Pant, Advocate on behalf of respondents, who prays fro and is allowed three week's time to file counter affidavit.

List thereafter.

Till the next date of listing, operation of impugned order dated 14.12.2000, contained in Annexure No. 1 to the writ petition, shall remain stayed.

However, in the meantime, it is provided that the case of respondents nos. 2, 3 and 4 shall be considered for promotion to the posts of Office Assistant Grade I as per the corrected final seniority list within 15 days from the date of production of a certified copy of this order.

It is also made clear that is junior persons are holding posts and there is no vacancy, the juniors shall be reverted, if the respondents are found suitable for promotion."

Both the parties have agreed that they will comply the order passed on 17th August, 2001 and shall consider the petitioner for promotion, if he is found suitable for promotion.

In view of the aforesaid observations, that will petition is disposed of. No. order as to costs.

01.12.2005 **(Rajesh Tandon, J.)**
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